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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 13 March 2007 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Tuvalu to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, and in reference to the note verbale from the latter dated 11 February 2004 concerning the reports called for under paragraph 6 of resolution 1455 (2003), has the honour to submit the report of the Government of Tuvalu on the actions it has taken to implement the said resolution (see annex).

07-27396 (E) 260307

Annex to the note verbale dated 13 March 2007 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Committee

Report of Tuvalu on actions taken by the Government to implement Security Council resolution 1455 (2003)

I. Introduction

1. There has been no detected activity by Usama bin Laden, Al Qaeda, the Taleban or their associates in Tuvalu to-date, nor have any specific threats or trends been identified in this regard.

II. Consolidated List

2. The government has, to the greatest extent permitted by constraints in human resources, technology, and infrastructure incorporated the 1267 list within its legal system, administrative structure, including financial supervision, police, immigration control, customs and consular authorities.

4. No designated individuals or entities have been identified.

5. Tuvalu has nothing to report in this regard.

6. Not applicable.

7. Not applicable.

8. Tuvalu does not currently have legislation specifically covering recruitment, training or support for Al-Qaida or other terrorist groups. Some acts of this type may be covered by Tuvalu's *Penal Code* if linked to actual or attempted criminal offences such as murder or kidnapping, which carry heavy penalties. The *Hostages Act* (1984) makes it an offence, punishable by life imprisonment, to detain and threaten any person in order to compel a State, international or governmental organization, or person to act or refrain from acting in a particular manner.

Additionally, legislation such as the *Arms and Ammunition Act* (1964) and *Explosives Act* (1927) may, in some circumstances, criminalise the possession or use of items capable of being used in terrorist attacks.

III. Financial and economic asset freeze

9. Under the *Proceeds of Crime Act (2004)* (POCA) the government has criminalised money laundering, established mechanisms for the identification, reporting and analysis of suspicious transactions, and providing for the restraint and confiscation of proceeds of crime. The Act also imposes a range of obligations on financial institutions regarding customer identification, record keeping and internal controls.

Currently, Tuvalu does not have legislation specifically criminalizing terrorist financing or addressing other counter-terrorism issues. However, the definition of "*serious offence*" in the POCA includes any offences against a law of Tuvalu, or offences in other countries that would constitute an offence punishable by a maximum penalty of imprisonment for 12 months or longer. Under this definition, money or other assets of

terrorists found in Tuvalu that have been used, or are intended for use in terrorist attacks could be subject to the provisions of the Act.

The government recognises that it is highly desirable to have specific counter terrorism legislation. It is therefore considering whether it will adopt, with necessary modifications, draft counter terrorism and trans-national crime legislation developed under the auspices of the Pacific Islands Forum Secretariat. It expects this assessment to be completed by mid 2007.

Key provisions in the model legislation include:

- Criminal offences required to implement the requirements of the 1999 Terrorist Financing Convention, including offences of financing terrorists, providing property or services to terrorists, harbouring of persons committing terrorist acts, provision of weapons to terrorists, and recruitment or participation in terrorist groups;

- Offences and provisions implementing obligations under the following Conventions and Protocols:

1963 Tokyo Convention;
1970 Hague Convention (Hijacking);
1971 Montreal Convention
1973 Internationally Protected Persons Convention;
1979 Hostages Convention;
1979 Nuclear Material Convention;
1988 Protocol on Unlawful Acts against the Safety of Civil Aviation;
1988 Maritime Safety Convention
1988 Fixed Platforms Protocol
1991 Plastic Explosives Convention
1997 Terrorist Bombing Convention
2002 Trans national Organised Crime Convention and related Protocols on People Smuggling and Migrant Trafficking.

The enactment of this or similar legislation would significantly enhance Tuvalu's implementation of its obligations to have effective counter terrorism legislative frameworks under UN Security Council Resolutions and Counter Terrorism Conventions.

10. The structures or mechanisms in place to identify and investigate Usama bin Laden, Al Qaida or Taliban related financial networks, or those that provide support to them or associated persons or entities.

The Police is the primary agency responsible for security and law enforcement agency in Tuvalu and has overall operational responsibility for the investigation and prosecution of suspected terrorist activity. Police also has responsibility for immigration and prison functions.

The POCA established a *Transaction Tracking Unit (TTU)*, located within Police, to receive reports of suspicious transactions, to keep statistics and to establish training requirements for financial institutions. The TTU can enter the premises of a financial institution or cash dealer to inspect records and give directions to facilitate an investigation. While the unit works closely with Police it does not undertake any investigation into suspected money-laundering offences. This function remains the responsibility of the Police. However, the

Unit can apply for a search warrant or a monitoring order, and can obtain an order against a financial institution or cash dealer to comply with their obligations under the Act.

Immigration and Customs officers operate at the border to detect any suspicious activity by persons entering or leaving Tuvalu. No electronic information system operates but authorities do have access to intelligence sources through the relationship between Police and the Australian Federal Police (AFP). The AFP has real time electronic access to lists of designated persons and entities maintained by the 1267 Committee.

Other government agencies that contribute to counter terrorism measures include the Ministry of Foreign Affairs and Trade, the Immigration Service and Ministry of Finance.

11. Describe the steps banks and other financial institutions are required to take to locate and identify assets of terrorists or associated persons or entities. A description of customer due diligence or know your customer requirements and details of government agency for enforcement.

The POCA imposes obligations on *"financial institutions"* and *"cash dealers"* aimed at preventing money laundering. *Financial institutions* are defined as persons carrying on a business of doing any of the following:

(a) accepting deposits and other repayable funds from the public;

(b) lending, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions;

(c) financial leasing;

(d) providing money transmission services;

(e) issuing and administering means of payment (for example, credit cards, travellers' cheques and bankers' drafts);

(f) entering into guarantees and commitments;

(g) trading for the institution's own account, or for account of customers, in money market instruments (for example, cheques, bills and certificates of deposit), foreign exchange, financial futures and options, exchange and interest rate instruments, and transferable securities;

(h) underwriting share issues and participation in such issues;

(i) giving advice to undertakings on capital structure, industrial strategy and related questions, and advice and services relating to mergers and the purchase of undertakings;

(j) money-broking;

(k) providing portfolio management and advice;

(l) safekeeping and administration of securities;

(m) providing credit reference services;

(n) providing safe custody services.

Cash dealers are defined as:

(a) a person who carries on a business of an insurer, an insurance intermediary, a securities dealer or a futures broker; and

(b) a person who carries on a business of dealing in bullion, of issuing, selling or redeeming travellers' cheques, money orders or similar instruments, or of collecting, holding and delivering cash as part of a business of providing payroll services; and

(c) an operator of a gambling house, casino or lottery; and

(d) a trustee or manager of a unit trust.

Under Part II of the POCA, it is an offence, punishable by a maximum fine of $12,000 and imprisonment for up to 2 years, or both for financial institutions or cash dealers to permit customers to establish or operate accounts under false names.

Furthermore, the Act requires institutions to obtain "official records" (e.g. Passports etc.) that are "reasonably capable" of establishing the customers true identity upon opening facilities. The Act requires institutions to keep and maintain customer and transaction records for a period of at least seven years.

The TTU within Police is the agency primarily responsible for monitoring compliance with these obligations by financial institutions. The Unit operates in close collaboration with the Ministry of Finance.

The government of Tuvalu is committed to working with potential donors of technical assistance to develop a more robust legislative framework and operational measures to protect the country's financial system from misuse by criminals or terrorists. A detailed summary of the specific assistance sought appears later in this report.

12. A list of terrorist assets that have been frozen in accordance with Resolution 1455.

To date, no assets of individuals or entities listed in the 1267 list have been located or frozen in Tuvalu.

13. A description of any terrorist assets that have been frozen but released.

Not applicable. Refer 12.

14. A description of the laws and mechanisms in place to control the movement of funds or assets to designated terrorists or associated entities and persons.

The Ministry of Foreign Affairs receives updated lists of entities or associated persons designated by the 1267 Committee. These lists are available to other government agencies, but in particular the Police, the Ministry of Finance, Customs and Immigration Services. Regulated institutions are expected to use the lists in identifying suspicious transactions and applying other internal controls required by the POCA. A failure by institutions to adequately apply these controls or to report suspicious transactions that may constitute proceeds of crime exposes them to potential offences, either for money laundering or other breaches of POCA requirements. The POCA does not currently impose transaction reporting obligations on financial or non-financial institutions relating to suspected terrorist financing. These terrorist-specific obligations are contained in the draft legislation currently being considered for adoption by the government.

Required bank reporting procedures, if any, including the use of Suspicious Transaction Reports (STR's), and how such reports are reviewed and evaluated.

Under the POCA (s101) financial institutions and cash dealers are required to report suspicious transactions if they have reasonable grounds for suspecting that a transaction in which they are involved may be relevant to the investigation or prosecution of a person for a serious offence. Reports must be filed with authorities as soon as possible but no later than 3 working days after forming that suspicion, and if possible before the

transaction is carried out. It is an offence, punishable by fines of up to $150,000 and imprisonment for 5 years, to fail to comply with these requirements.

Upon receipt of suspicious transaction reports, the TTU will analyse them, seek any additional information necessary and where appropriate forward reports onto Police and Attorney General for investigation and prosecution.

Requirements, if any, placed on financial institutions other than banks to provide STR's, and how such reports are reviewed and evaluated.

See above.

Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds, and other related items.

Under the POCA the definition of *Cash dealers* includes any person who carries on a business of dealing in bullion. These businesses are therefore subject to requirements relating to the identification and reporting of suspicious transactions, customer due diligence, record keeping and internal controls.

Restrictions or regulations, if any, applicable to alternate remittance systems such as, or similar to, "hawala", as well as on charities, cultural and other non profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.

Under POCA, (s110) authorised officers may seize and detain any currency that exceeds $1,000 that is being imported into or exported from Tuvalu if there are reasonable grounds for suspecting that it is property derived from a serious offence; or intended by any person for use in the commission of a serious offence. Furthermore, groups, organizations or individuals could be liable for the offence of money laundering if they engage, directly or indirectly, in a transaction that involves money, or other property, that they know, or ought reasonably to know, to be proceeds of crime; or if they receive, possess, conceal, dispose of or bring such money or property into Tuvalu. The maximum penalty for money laundering is a fine of $120 000, or imprisonment for 20 years or both if the offender is a natural person; or a fine of $600,000 if the offender is a body corporate.

IV. Travel Bans

Under the sanction regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals.

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The government considers the risk of persons designated under UNSCR 1267 entering Tuvalu to be low, primarily because of the countries remote geographical location and the limited number of commercial air links originating from neighbouring countries. However, a number of measures do exist by which the travel ban can be enforced in the country.

The *Immigration Act* (1969) is the principal legislative means by which Tuvalu fulfils its obligations under this element of relevant resolutions. The Act provides the basis for Tuvalu's visa system regulating entry of persons into the country. It also sets out the process by which *"prohibited immigrants"* can be prevented from entering

or remaining in the country. The Act empowers the Principal Immigration Officer to deny entry to specified categories of persons, including any classes of person prescribed by the Minister of Immigration (Section 10 2(g)). The Minister could exercise this power to deny entry of persons designated under UNSCR 1267 into Tuvalu.

The Minister of Immigration may also order the removal from Tuvalu of any person convicted of being in the country unlawfully. (s 13)

The Act imposes obligations on all operators of aircraft or vessels arriving in Tuvalu to provide manifests of all passengers and crew to the Immigration Service prior to disembarkation.

Currently, this information is provided manually to authorities on arrival or, upon request, by e-mail. At present there are no systems in place for Advanced Passenger Information (API) or Advanced Passenger Processing (APP). Immigration officers process travel and arrival documentation of visitors entering Tuvalu manually at the point of entry.

16. Have you included the names of listed individuals in your national 'stop list" or border checkpoint list? Briefly outline the steps taken and any problems encountered.

Currently, there is no national "stop list" or border checkpoint list operating in Tuvalu. Generally, persons of potential interest to authorities in that country for reasons related to terrorism or trans-national crime must be identified by authorities in other countries. However, agencies in Tuvalu have access through Police to intelligence sources of the Australian Federal Police.

17. How often is the updated list transmitted to border control authorities? Is there the capabiiity of searching list data using electronic means at all entry points?

Refer to 16 above. Authorities in Tuvalu do not currently have this capability.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No listed individuals have been identified and stopped at Tuvalu's border or in transit.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

Consular offices have no role in the issuing of visas. Visas permitting stays of up to 30 days in Tuvalu are issued to all persons permitted to enter the country at the border. All applications for extended visas are received and assessed by the Immigration Department's office in Tuvalu. Background checks are conducted on applicants for extended visas or those who provide some basis for suspicion by Police utilising intelligence sources available through the Australian Federal Police (AFP). The AFP has access to a number of international watch-lists that include the 1267 list. Visa-issuing authorities have not identified any visa applicant whose name has appeared on the 1267 list.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

20. Refer to response 23 below.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

Refer to response 23 below.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Refer to response 23 below.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

In response to Questions 20-23. The number of firearms in Tuvalu is very small and there are tight controls on their importation, possession or use as well as explosives.

The *Arms and Ammunition Act* (1964) and *Explosives Act* (1927) are the primary means by which the provision of arms to or acquisition of arms by, persons or entities on the 1267 list is controlled. These Acts restrict the importation, exportation, manufacture, possession or use of arms, ammunition or explosives to persons authorised under permits issued by the Commissioner of Police. The Commissioner of Police takes security issues into account when considering applications for permits. Persons undertaking these activities without the required permits commit offences punishable by fines or imprisonment.

The Acts provide Police with powers of entry, search and seizure when investigating suspected offences.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Not applicable.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

The draft legislation developed by the Pacific Islands Forum Secretariat that is under consideration by the government would considerably enhance Tuvalu's compliance with the terrorist financing and asset freezing elements of relevant UN Security Council Resolutions. Tuvalu requires technical assistance in developing and implementing a more comprehensive legislative framework in relation to counter terrorist financing and anti-money laundering.

Technical assistance is also required to develop the operational capability of the TTU to performing the functions of a Financial Intelligence Unit that meets current international standards.

26. Please include any additional information you believe pertinent.

Not applicable.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 13 March 2007 from the Permanent Representative of Uruguay to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to you herewith, in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, the report of the Government of Uruguay in response to the questions contained in Security Council resolutions 1267 (1999) and 1455 (2003) (see annex).

The aforementioned report was drawn up by the competent authorities of the Republic (Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Defence and the Centre for the Prevention of Money-laundering) in accordance with the instructions of the national Government and in pursuance of international undertakings to combat international terrorism. It is a public document.

(*Signed*) Elbio **Rosselli**
Ambassador
Permanent Representative of Uruguay to the United Nations

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Annex to the letter dated 13 March 2007 from the Permanent Representative of Uruguay to the United Nations addressed to the Chairman of the Committee

Uruguay

Report pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

1. *Please provide a description of activities, if any, by Usama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.*

To date no activities linked to Usama bin Laden or any Al-Qaida follower or sympathizer have been detected in our territory. Although there has been an increase in our region in the number of citizens sympathetic to the Muslim religion, there is no evidence of any links between them and that terrorist group.

2. *How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?*

Finance:

Supervision of all the country's relevant financial activity falls to the Central Bank of Uruguay, which controls the activity of banks, exchange bureaux, insurance companies, pension fund administrators, the stock market and similar entities.

On 23 December 2003, the Central Bank of Uruguay issued a resolution, communicated in Circular No. 1890 of 26 December 2003, which provides as follows:

(a) All physical and legal entities under its supervision must establish the necessary preventive mechanisms to ensure that, in future, any transaction directly or indirectly linked to any of the individuals or organizations included in the "Consolidated List" maintained by the United Nations may be rapidly detected. It also indicates the address of the website where the aforesaid list may be consulted, both in English and in Spanish.

(b) Whenever such links are noted, they must be promptly brought to the attention of the Information and Financial Analysis Unit (UIAF) of the Central Bank of Uruguay.

Moreover, article 17 of Act No. 17,835 of 23 September 2004 stipulates that financial intermediation institutions must inform UIAF of any assets linked to persons identified as terrorists or as belonging to terrorist organizations in the United Nations list of associated individuals and entities.

Prevention and control:

The main bodies concerned are the National Migration Office (Ministry of the Interior), the Customs Office (Ministry of Economic and Financial Affairs), the Coastguard (Ministry of Defence) and the Border Control Department (Ministry of Defence), which ensure the necessary coordination through the Committee for Border Control Facilitation.

Before issuing visas, for those nationalities that so require, the National Migration Office consults the national Information and Intelligence Office and Interpol.

3. *Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.*

The major difficulty for us lies in using and transcribing Arabic words in Spanish.

4. *Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.*

We have not to date identified any, nor have we found evidence to suggest that any of the designated individuals have crossed our borders to pass into or out of our country or have travelled in it.

5. *Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama bin Laden or members of the Taliban or Al-Qaida that have not been included in the list, unless to do so would compromise investigations or enforcement actions.*

No individuals warranting inclusion in the list have been identified to date.

6. *Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.*

No such proceedings have been initiated.

7. *Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.*

No such individuals have been identified to date.

8. *According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.*

National legislation defines as criminal offences acts of terrorism (Act No. 17,835, article 14), the financing of terrorism (Act No. 17,835, article 16), public incitement to commit a crime (article 147 of the Penal Code) and statements in support of acts defined as criminal offences (article 148 of the Penal Code).

The strict application of these provisions by the competent bodies is the means whereby the authorities would prevent or punish any activities by Al-Qaida members. To date no such activities have been detected in the national territory.

9. *Please describe briefly:*

- *The domestic legal basis to implement the asset freeze required by the resolutions above;*

• *Any impediments under your domestic law in this context and steps taken to address them.*

(a) We reproduce hereunder part of the reply given in the report of 12 December 2001 on the implementation of paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001:

> "Under Uruguayan law, freezing of an account or asset requires a judicial order. Bank accounts and assets are governed by Decree-Law No. 15,322 and Acts Nos. 17,016 and 17,343.
>
> "Bank secrecy is enshrined in article 25 of Decree-Law No. 15,322; thus, operations and information falling into that area may be revealed only upon express written authorization of the person concerned or by reasoned order of a criminal court judge or of the competent judge in the case of a maintenance obligation.
>
> "Act No. 17,016 amended Decree-Law No. 14,294, which regulates narcotics-related matters; articles 54 to 57 thereof also apply to goods, products or instruments associated with offences defined under our legislation as associated with various unlawful activities, including terrorism. To summarize, our legislation provides for the possibility of freezing the accounts and other financial assets of individuals who commit or seek to commit acts of terrorism, or who participate in or facilitate such acts, upon the order of an Uruguayan or foreign judge in accordance with the treaties on cooperation in criminal matters to which Uruguay is a party.
>
> "Without prejudice to the preceding, the judge in a case may, at any time and without prior notice, issue an order of confiscation, seizure, provisional attachment or any other precautionary measure designed to ensure or preserve the availability of goods, products or instruments used in unlawful activity with a view to their potential confiscation or seizure."

(b) Subsequent to the aforementioned provisions, the adoption of Act No. 17,835 of 23 September 2004 has further contributed to the possibilities of expeditious action in this regard by assigning to the Information and Financial Analysis Unit the power to prevent for a period of 72 hours the realization of transactions involving natural or legal persons suspected of having links to criminal organizations associated with offences covered by that act (money-laundering and financing of terrorism). The same measures may be taken by UIAF to prevent transactions by individuals identified as terrorists in United Nations lists, belonging to organizations included in such lists or declared to be terrorists by a final judgement of a national or foreign court.

The act also stipulates that the UIAF decision must be communicated immediately to the criminal justice authorities, who will determine, according to the circumstances of the case, whether assets may be frozen without prior notice.

10. *Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.*

Investigations and international cooperation in matters of finance are basically the responsibility of the Information and Financial Analysis Unit of the Central Bank of Uruguay.

As stated in the reply to question 2 above, all Uruguayan financial institutions are required to monitor and report to UIAF any transactions directly or indirectly linked to individuals or organizations included in the United Nations Consolidated List.

Moreover, in accordance with article 17 of Act No. 17,835 of 23 September 2004, financial intermediation institutions must inform UIAF of the existence of assets linked to:

(a) Persons identified as terrorists or as belonging to terrorist organizations in the United Nations lists of associated individuals and entities;

(b) Persons who have been declared to be terrorists by a final judgement of a national or foreign court.

At the national level, measures have been taken in the last year to strengthen machinery for the coordination of all efforts to prevent and punish money-laundering and the financing of terrorism, involving the Office of the President of the Republic, UIAF, the Ministry of Economic and Financial Affairs, the Office for International Legal Cooperation and MERCOSUR. Through this machinery, action in this area is coordinated with the Ministry of the Interior, the Ministry of Defence, the judicial authorities and the Office of the Public Prosecutor.

11. *Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.*

See the replies to questions 2 and 10 on the steps required to be taken by institutions. As regards "due diligence" requirements in relation to customers that must be met by financial institutions, article 72 of Act No. 17,016 of 22 October 1998 provides as follows:

> "Article 72. In accordance with regulations established by the Central Bank of Uruguay, financial intermediation institutions may not maintain accounts without due identification of the persons in whose name they have been opened. Such institutions shall record and effectively verify the identity, representative status, domicile, legal capacity and occupation or nature of business — as the case may be — of the natural and legal persons holding accounts with them, in accordance with the regulations established by the Central Bank of Uruguay."

As regards "know your customer" policy, the Central Bank of Uruguay has issued specific rules under which institutions are required to identify adequately the natural and legal persons with whom they have dealings. There are accordingly minimum requirements for the opening of an account, and companies are required to take steps to obtain, update and preserve information as to the true identity of persons for whose benefit an account is opened or a transaction effected.

Under the rules of the Central Bank, institutions are also required to have in place policies and procedures whereby they have adequate knowledge of their customers, having particular regard to the volume and nature of their business or other economic activities in which they engage.

When financial institutions suspect that an account has been opened or a transaction has been conducted on behalf of another person, they are required, under the regulations of the Central Bank — Circular No. 1738 of 19 February 2001 — to take steps to "obtain, update and preserve information as to the true identity of the persons for whose benefit an account is opened or a transaction carried out".

As was stated in the reply to question 2, the body responsible for monitoring compliance with these rules is the Central Bank of Uruguay, through its various supervisory services, namely:

- The Superintendency of Financial Intermediation Institutions (financial intermediaries in general and exchange bureaux);
- The Superintendency of Insurance and Reinsurance (insurance and reinsurance companies;
- The Securities Market and Pension Fund Regulatory Division (AMV) (securities traders, stockbrokers, investment fund managers, trust fund managers and pension fund administrators).

12. *Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:*

- *Identification(s) of the person or entities whose assets have been frozen;*
- *A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate and other assets);*
- *The value of assets frozen.*

To date no assets have been frozen in pursuance of the above-mentioned resolutions.

13. *Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.*

We have no record of such assets being released.

14. *Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or*

procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- *The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.*

See the reply to question 2. Information about the list was communicated in Circular No. 1890 of 23 December 2003, which requires that financial institutions directly consult the United Nations website on a regular basis.

- *Required bank-reporting procedures, if any, including the use of suspicious transaction reports (STRs), and how such reports are reviewed and evaluated.*

See the replies to questions 2 and 10. It may also be noted that there is no express rule that transactions or assets linked to such individuals or organizations should be reported to UIAF through a suspicious transaction report.

- *Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated.*

See the replies to questions 2 and 10. It may also be noted that there is no express rule that transactions or assets linked to such individuals or organizations should be reported to UIAF through a suspicious transaction report.

- *Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.*

Article 19 of Act No. 17,835 provides as follows:

"(a) All natural or legal persons subject to the supervision of the Central Bank of Uruguay who transport across the border cash, precious metals or other means of payment in an amount exceeding US$ 10,000 (ten thousand United States dollars) shall so inform the Central Bank of Uruguay in accordance with its regulations.

"(b) All other persons who transport across the border cash, precious metals or other means of payment in an amount exceeding US$ 10,000 (ten thousand United States dollars) shall make a declaration to that effect to the Customs Office in accordance with the relevant regulations.

"(c) Non-compliance with this requirement shall be punishable in accordance with article 1 of the present Act in the case of persons covered by the first paragraph of the present article and in accordance with article 2 of the present Act in the case of persons covered by the second paragraph of the present article."

- *Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.*

There are no specific provisions in this regard nor has there been any evidence of the existence and operation in our country of informal remittance systems, such as "hawala" or the like.

15. *Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.*

As was noted in the reply to question 2, controls are in place through the Committee for Border Control Facilitation, in coordination with the relevant bodies, and checks are carried out prior to the granting of visas for those nationalities that require visas.

16. *Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.*

The lists have been circulated to officials for the purpose of identifying and detaining alleged suspects and are updated as soon as they are received. It should be stressed that Uruguay has an extensive land border, which is constantly patrolled, but it is difficult to ensure 100 per cent effectiveness.

17. *How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?*

The lists are modified immediately on receipt of new information. The existing electronic means for checking do not cover all the country's possible entry points.

18. *Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.*

No listed individual has been stopped, none having been identified.

19. *Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?*

In addition to circulating and updating the list, the granting of visas is subject to a prior check, carried out in cooperation with the police authorities (national Information and Intelligence Office and Interpol).

20. *What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?*

Uruguay's legal system regulates the import, acquisition and carrying of weapons and the manufacture, trade, import and export of explosive materials.

The system's effectiveness derives from its active approach and the constant concern of the Government to maintain an up-to-date legal system that enables the necessary mechanisms to operate to prevent terrorist organizations from having access to such arms.

In Uruguay, no evidence has been found of an illicit trade in small arms and light weapons. Citizens have, however, been found to be in possession of firearms which they are entitled to own but have not registered or otherwise brought into conformity with the regulations.

Act No. 17,300 of 7 March 2001 approved ratification of the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other Related Materials.

Pursuant to article IV of the Convention, the Executive has drafted a bill in which the illicit manufacture and assembly of and trafficking in such materials are defined as criminal offences, as are aiding, abetting, facilitating and counselling the commission of illicit manufacture or trafficking, together with conspiracy, preparatory acts and attempts to commit such offences.

Furthermore, Act No. 17,835 of 24 September 2004, providing for a system for the prevention and control of money-laundering and the financing of terrorism, lays down rules defining criminal offences involving assets, proceeds or instruments deriving from the commission of criminal offences, as so defined by our legislation, linked to illicit trafficking in firearms, explosives or ammunition or materials for their production. It accordingly provides for application of the technique known as "controlled delivery", in accordance with the provisions of its articles 8 and 9. This technique consists in allowing illicit or suspect consignments of firearms, ammunition, explosives and other related materials to pass out of, through or into the territory of one or more States with the knowledge and under the supervision of the competent authorities with a view to identifying persons involved in the commission of the offences referred to in article IV of the Convention, in accordance with the provisions of its article I, paragraph 7, and article XVIII.

At the domestic level, the monitoring of compliance with the existing rules is entrusted to the Ministry of Defence, which is responsible for registering weapons existing in the country (including those assigned to the armed forces and police), and to the Ministry of the Interior, which is responsible for authorizing the acquisition of weapons.

In accordance with Decree No. 114/998, the National Weapons Registry of the Materiel and Weapons Service, attached to the Ministry of Defence, is responsible for monitoring and registering the import, export, sale, manufacture and possession of firearms and such other weapons as may be determined, along with the corresponding ammunition, in accordance with the laws, decrees and regulations in force, by whomsoever held, throughout the territory of the Republic.

It has the task of monitoring and registering weapons and ammunition, used or sold for civilian purposes, and for monitoring, registering and issuing arms possession permits. It also maintains a register of public and private persons who import, manufacture, sell, repair or trade in firearms to be used or sold for civilian purposes, and of their parts, components and ammunition.

In addition, it is responsible for receiving, storing, delivering and disposing of weapons and ammunition referred by the courts. The applicable rules are based on Decree-Law No. 10,415 of 13 February 1943 and its Regulatory Decree No. 2605/943 of 7 October 1943.

Customs procedures for import, export and transit require the prior authorization of the Ministry of Defence. Imports are only allowed under the direct delivery procedure. Bank institutions, both official and private, may not handle any import transaction without the prior presentation of certificates of authorization issued by the Ministry of Defence.

As already mentioned, the National Weapons Registry of the Materiel and Weapons Service is responsible for monitoring and registering the import, export, sale, manufacture and possession of firearms.

With respect to exports and re-exports of goods in transit, applications must first be endorsed by the competent consul pursuant to Decree No. 550/969 and shall then be transmitted to the Ministry of Foreign Affairs. The following documents shall be submitted: export certificate issued by the Materiel and Weapons Service, export permit issued by the Ministry of Defence, import certificate issued by the country from which the goods are being exported, application for re-export of the goods and manufacturer authorization.

The Materiel and Weapons Service is responsible for receiving applications for the import of firearms, explosives, ammunition and hazardous chemicals and for issuing the import certificate following the relevant technical report.

Applications for customs operations shall be submitted to the Ministry of National Defence and shall include the following information: industrial or commercial designation, number of cases, weight, marks, numbers, provenance, transporting vessel, registry of the vessel, date and place of the arrival or departure of the vessel, place where the goods shall be deposited or destination, depending on the nature of the operations. In the case of import operations, applications shall be submitted to the Ministry of National Defence before the goods are acquired in the country of origin and shall entail the intervention of the Materiel and Weapons Service.

The authorization certificates issued by the Ministry of Defence shall be submitted together with the other relevant documents that must be submitted to the customs units. The Materiel and Weapons Service sends a photocopy or fax of issued import certificates to the Logistics Department at the Ministry of Defence on a weekly basis.

With respect to terrorism at the international level, since 1963 Uruguay has taken the necessary measures to ensure that this international scourge does not take root in the country. To date, there has been no evidence of organizations in Uruguay that could be classified under one of the four categories of terrorism (nationalist, ideological, religious and State terrorism), much less groups that would fall under two or more of these categories.

Furthermore, there are no foreign terrorist organizations that exist in or use the national territory as a haven for rest, refuge or training.

There is no evidence of a link at present between drug trafficking and firearms. However, such a link remains a constant concern because of the strategic location of our country in the region, especially the Port of Montevideo as an entry and exit point for containers destined for the interior of the continent: across the borders with Brazil and Argentina or towards Paraguay and Bolivia. Relevant international cooperation agreements include, inter alia, the bilateral treaties signed with countries such as Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Panama, Paraguay, Portugal, Spain, United Kingdom and United States of America. Within the national legal framework, Acts Nos. 14294/974, 16034/989, 17016/998, 17060/998 and 17343/000 and Decrees Nos. 454/976, 463/988 and 170/000 are part of Uruguay's positive law.

It should be noted that one of the conclusions of the National Seminar on Public Security, which was held in September 2005 in Montevideo and was organized by the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean through the United Nations Development Programme in Uruguay, was that it was necessary to operationalize a national commission on weapons pursuant to article 3 of Decree No. 252/968 of 16 April 1968, which provides for the establishment of a commission comprised of representatives of various government ministries to study and propose a new structure for the regulations on explosives and weapons.

Once operational, this national commission will be responsible for bringing Uruguay's current legislation on firearms, ammunition and explosives into line with the international agreements signed by Uruguay.

21. *What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?*

Article 150 of the General Penal Code defines the offence of "association with criminal intent", whereby those who associate for the purpose of committing one or more offences shall be punishable for the mere act of association.

All acts of terrorism and related acts are covered by this definition. Hence, any person who provides assistance to any of these terrorist organizations by supplying weapons or other military materiel would fall under the definition of this offence. The definition, moreover, finds support in articles 37 and 39 of the Constitution, which prohibit unlawful association.

The Security and Public Order Act No. 14,068 of 1972 reduced the number of active participants, allowing for the possibility of only two participants in the commission of an offence. But the plural was retained for the offences: an association existed if at least two persons associated for the purpose of committing various offences.

In addition, the Security Act No. 16,707 of 1995 made the objective a single offence. An association exists if two persons associate for the purpose of committing a single offence.

Since agreement between two persons for the purpose of committing a single offence now constitutes an offence of association with criminal intent, it is always punishable as an offence against public order.

This is what comparative law calls a "conspiracy crime".

In addition, Uruguay has other rules of positive law that were promulgated with a view to watching out for and preventing an illicit trade in firearms that might be supplied to the above-mentioned terrorist organizations.

In the chapter on misdemeanours against personal safety, article 365, subparagraph 9, of the General Penal Code penalizes the clandestine introduction, storage, sale and so forth of explosive substances. Subparagraph 12 penalizes the unlawful use and possession of firearms, and this covers anyone who maintains possession of a weapon in violation of the regulations governing possession.

These provisions make a significant contribution to controlling the illicit flow of weapons within the country and, together with article 150, make it possible to monitor the activities of individuals who might intend to supply weapons to terrorist organizations.

22. *Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.*

In Uruguay, the Ministry of the Interior has jurisdiction over authorization for the acquisition of weapons and for the system of issuing permits for the bearing of arms by individuals.

This system is supported by an adequate legal framework which ensures efficiency and allows for the detection of probable or possible criminal groups and sets in motion the Government's suppression mechanisms.

For example, Decree No. 238/99 regulates the acquisition and possession of firearms, the issuance of an arms possession permit, the bearing of arms, unrestricted weapons, prohibited arms, ammunition and materiel and the conditions for the transport of weapons. This decree was amended by Decree No. 231/002 of 18 June 2002.

With respect to the acquisition and possession of firearms, the decree establishes that only persons over 18 years of age may acquire, own and bear firearms, and they must apply for the certificate of authorization to acquire and bear arms (THATA), which can be revoked and is valid for a period of three years.

This document authorizes a natural or legal person to acquire, own and use firearms within the limits prescribed by law.

The following are required to obtain the THATA certificate: identity document, proof of residence, certification of criminal background check, proof of employment.

The certificate shall be denied if the applicant is a foreign national, has a prior criminal record or has an outstanding summons or arrest warrant, among other grounds.

With respect to the issuance of the arms possession permit, the decree establishes what information is to be contained in the arms possession permit, the persons entitled to hold such permits, and the rules to be followed in disposing of firearms.

In order to repair or sell a weapon, the THATA certificate and the corresponding permit must be produced. Any weapon lacking the documentation referred to, shall, following intervention by the competent police and judicial authorities, be seized and deposited with the Army's Materiel and Weapons Service; the interested party may regularize the situation within a specified time, without prejudice to any penalties that may apply.

The authorization to bear arms shall be subject to strict administrative control and shall be issued by the Office of the Chief of Police with validity throughout the national territory. It is not permanent and may be revoked if there is a change in the conditions under which it was granted; it is valid for a period of two years.

To obtain such an authorization the application must provide personal data; characteristics of the weapon; purpose of the request; length of time for which the authorization is required; and attestation of qualification to use a firearm, by passing a course in marksmanship and producing a medical certificate of psychological and physical fitness to use and carry firearms, photocopies of the identity card, the THATA certificate, the arms possession permit and a certificate issued by the police department with jurisdiction over the applicant's place of residence attesting that the applicant is an honest and stable individual.

Authorization to bear arms will be granted only to those who justify the need to bear arms for security reasons and will be revoked in the event a criminal offence is committed.

Unrestricted weapons are divided into two categories: (a) unrestricted ownership weapons, for the purchase and ownership of which a THATA certificate must be obtained, and (b) restricted ownership weapons, for the purchase and ownership of which a special THATA certificate must be obtained.

Possession of prohibited arms, ammunition and materiel is prohibited; they are restricted for use solely and exclusively by the armed forces and the police.

With respect to the conditions for the transport of weapons, the Decree provides that anyone transporting weapons or ammunition shall carry the THATA certificate and arms possession permits for the weapons being transported and that the stipulated security measures must be taken.

23. *Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?*

It should be stressed that Uruguay is not a producer of firearms of any type or calibre.

Uruguay cooperates on this issue through the adequate marking and subsequent registration of firearms.

This ensures that any change of circumstances of the firearm, from the day it is manufactured until it reaches its last owner, is duly recorded to create a faithful history of the firearm in an unbroken chain, so that the information frequently requested by the courts, other bodies and international organizations can be provided.

To that end, an information technology system assists in answering inquiries rapidly.

A database is being established in Department 11, Organized Crime, in the Information and Intelligence Office of the Ministry of the Interior to facilitate investigations into illicit trade and trafficking in firearms. Police tracing activities are carried out in coordination with other units, including the National Central Bureau of Interpol, the Narcotics Department and the various departmental police headquarters.

24. ***Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.***

Our country reiterates its willingness to cooperate in implementing the above-mentioned resolutions, though it remains unclear in which areas it could provide assistance to other States.

25. *Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.*

Although there is no indication of incomplete implementation, it would be helpful to strengthen the whole area of border control, including equipment, training and information technology, and to undertake a comprehensive analysis to establish the potential for specific assistance in these areas.